

**ReedSmith**

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Via Fax (914-390-4179)

**MEMO ENDORSED**

Hon. Stephen C. Robinson  
United States Courthouse  
300 Quarropas Street, Room 633  
White Plains, New York 10601-4150

Re: *Merrill Herman and Sharron Dupler v. David Berson, et al.*  
Case No. 7 cv 10263 (SCR)

Dear Judge Robinson:

I write to request a second, 2-week extension, from January 7, 2008 to January 22, 2008, for Defendant Fiserv, Inc. ("Fiserv") to answer, move, or otherwise respond to plaintiffs' Complaint, and a concomitant extension of the Scheduling Order submission date, from January 25, 2008 to February 8, 2008.

This Court previously granted Fiserv's first extension of these deadlines (from December 18, 2007 and December 28, 2007, respectively), to which plaintiffs' counsel consented. Fiserv requested its first extension so that the parties could discuss Fiserv's request that these plaintiffs voluntarily dismiss their claims, and if needed, prepare a motion to seek dismissal. Among other things, plaintiffs agreed to arbitrate any disputes with Fiserv Trust, including this one.

Unfortunately, after communicating with plaintiffs' counsel, it is now evident that the plaintiffs will not voluntarily dismiss their claims against Fiserv. Moreover, due to the recent holiday and vacation schedules of various of the people involved, more time is needed to obtain the information required and to prepare our motion.

We spoke with Plaintiff's counsel on this subject yesterday but they have not yet provided their position, and the current deadline will expire on Monday. Counsel for the other defendants has requested that we also convey his request for the same extension of time.

We thank the Court for its consideration of this request.

Respectfully yours,

*FINAL EXTENSION*

APPLICATION *GRANTED*

Wendy H. Schwartz

cc: (via fax) *Stephen C. Robinson*  
Patrick *Robinson*, Esq.  
Scott Zucker, Esq.

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